

Becker



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter Of: IMCO General Construction, Inc.

File No.: B-259186

Date: November 16, 1994

DECISION

IMCO General Construction, Inc. protests the rejection of its bid under invitation for bids (IFB) No. DACW68-94-B-0038 by the Department of the Army.

We dismiss the protest because bids that specify an acceptance period that is shorter than the minimum period expressly required by the solicitation are nonresponsive on their face. Thus, the protest fails to state a valid legal challenge to the agency's rejection of the protester's bid.

A minimum acceptance period in an IFB requires bidders to share the same business risks of leaving their bids open for acceptance by the government for the same amount of time. A bidder allowed to specify a shorter acceptance period would have an unfair advantage over its competitors by being able, on the one hand, to refuse the award after the bid acceptance period expires should the firm decide it no longer wants the award because of unanticipated cost increases, or, on the other hand, to extend the bid acceptance period after competing bids have been exposed if the firm wants the award. Sac & Fox Indus. Ltd., B-231873, Sept. 15, 1988, 88-2 CPD ¶ 250. Consequently, it is well-established that an IFB requirement that a bid remain available for acceptance by the government for a prescribed period of time is a material requirement, and a failure to comply with it cannot be waived or corrected after bid opening. See, e.g., Taylor Lumber & Treating, Inc., B-229715, Dec. 23, 1987, 87-2 CPD ¶ 625. This is the case even if the bid would provide savings to the government; we have long recognized that the public interest in maintaining the integrity of the competitive bidding process outweighs any monetary benefit to be gained from waiving bidding deficiencies. Id.

The protest is dismissed.

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